

## **§ 270.10**

to, an eligible person under this part may not exceed \$50,000.

### **§ 270.10 Time limitations.**

To be eligible for payments under this part, applicants must file Applications for Compensation of Vietnamese Commandos with the Commission within 18 months of the effective date of these regulations, May 15, 1997.

### **§ 270.11 Limitation on disbursements.**

Notwithstanding any agreement (including a power of attorney) to the contrary, the Commission must disburse a payment under this part only to the person who is eligible for the payment, i.e., the commando, his surviving spouse, children, parents, or siblings. The Commission may, in its discretion, require the person who is eligible for the payment to appear at any designated Defense Finance Accounting Service disbursement office in the United States to receive payment. The Commission may, in its discretion, coordinate with other U.S. governmental agencies to facilitate disbursement of payments to persons eligible for payments who reside outside the United States. If an eligible person makes a written request that payment be made at an alternate location or in an alternate manner, the Commission may, in its discretion, grant such request, provided that the actual disbursement of the payment (i.e., the physical delivery of the payment) is made only to the eligible person. The Commission will not disburse payment to any person other than an eligible person, notwithstanding any written request, assignment of rights, power of attorney, or other agreement. In the case of an application authorized for payment but not disbursed as a result of the foregoing, the Secretary will hold the funds in trust for the person authorized to receive payment in an interest bearing account until such time as the person complies with the conditions for disbursement set out in this part.

[63 FR 3472, Jan. 23, 1998, as amended at 63 FR 68195, Dec. 10, 1998]

### **§ 270.12 Payment in full satisfaction of all claims against the United States.**

The acceptance of payment by, or with respect to, an eligible person

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under this part shall constitute full satisfaction of all claims by or on behalf of that person against the United States arising from the person's participation in operations under OPLAN 34A or OP35.

### **§ 270.13 No right to judicial review or legal cause of action.**

Subject to subpart E of this part, all determinations by the Commission pursuant to this part are final and conclusive, notwithstanding any other regulation. Applicants under this part have no right to judicial review, and such review is specifically precluded. This part does not create or acknowledge any legal right or obligation whatsoever.

### **§ 270.14 Limitation on attorneys fees.**

Notwithstanding any contract or agreement, the representative of a person authorized to receive payment under this part may not receive, for services rendered in connection with the claim of, or with respect to, a person under this part, more than 10 percent of a payment made under this part on such claim.

### **§ 270.15 Waiver of notary requirement.**

In exceptional circumstances (e.g., overseas claimant) the requirement for notarizations may be waived at the discretion of the Commission.

## **Subpart E—Appeal Procedures**

### **§ 270.16 Notice of the Commission's determinations.**

Applicants whose claims for payment are denied in whole or in part by the Commission will be notified in writing of the determination. Applicants may petition the Assistant Secretary of Defense, Force Management Policy (or his designee) for a reconsideration of the Commission's determinations, and may submit any documentation in support of such petitions.

### **§ 270.17 Procedures for filing petitions for reconsideration.**

A request for reconsideration must be made to the Secretary, care of the Staff Director of the Commission at the address of the Commission set out in § 270.7, within 45 days of receipt of

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the notice from the Commission of ineligibility. The Commission may waive that time limit for good cause shown.

### § 270.18 Action on reconsideration.

(a) The Assistant Secretary of Defense, Force Management Policy (or his designee) will:

(1) Review the Commission's administrative record of the original determination.

(2) Review additional information or documentation submitted by the applicant to support his or her petition for reconsideration.

(3) Determine whether the decision of the Commission should be affirmed, modified, or reversed.

(b) When there is a decision affirming the Commission's determinations, the Staff Director will notify the applicant in writing and include a statement of the reason for the affirmance.

(c) A decision of affirmance shall constitute the final action of the Department of Defense. The Secretary (or his designee) may decline to consider any subsequent petitions for reconsideration.

(d) When there is a decision modifying or reversing the Commission's determination, the notification should be immediately made to the Staff Director so as to implement the final action.

## Subpart F—Reports to Congress

### § 270.19 Reports to Congress.

Not later than September 23, 1998, the Commission will prepare and the Secretary will submit to Congress a report on the payment of claims under this part. Subsequent to that initial report, the Commission will prepare and the Secretary will submit to Congress annual reports on the status of payment of claims.

#### APPENDIX A TO PART 270—APPLICATION FOR COMPENSATION OF VIETNAMESE COMMANDOS

All persons applying for payment shall submit a properly completed, signed and notarized Application for Compensation of Vietnamese Commandos, along with corroborating documents and information, to: Commission on Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, D.C. 20301-4000.

All applicants must sign and have notarized the declaration in Part C of the application. In addition, all applicants must sign and have notarized the declaration in either Part A or Part B of the application (as applicable).

Applicants must file applications within 18 months of the effective date of this part (15 May 1997): that is, *not later than 15 November 1998*.

Privacy Act Statement:

AUTHORITY: National Defense Authorization Act for Fiscal Year 1997, Public Law 104-201, Section 657.

Principal Purpose: To evaluate applications for cash payments for those individuals, or their surviving spouse, children, parents, or siblings, who were captured and incarcerated by North Vietnam as a result of participating in specified joint United States-South Vietnamese operations.

Routine Uses: To the Immigration and Naturalization Service and the Central Intelligence Agency for purposes of verifying information relating to the claimant's eligibility for payment. To the Department of Justice for purposes of representing the Department of Defense in *Au Dong Quy, et al./Lost Commandos v. The United States*.

Disclosure: Voluntary. However, if portions are not completed the Commission may draw adverse inferences from the incomplete portions.

Social Security Number: Providing a social security number is voluntary. If one is not provided, the application for payment will still be processed.

This application shall be executed by the person applying for eligibility, or his surviving spouse, children, parents, or siblings, or designated representatives of such persons.

Part A—Complete the following information on the person whose status as a former operative is the basis for applying for payment:

(1) Current legal name or legal name at death:

(a) Aliases: \_\_\_\_\_

(b) Former, or other legal names used: \_\_\_\_\_

(2) Current address or last address prior to death: \_\_\_\_\_

(3) Mailing address for compensation check in the event compensation is approved (may be different from commando's current/last address): \_\_\_\_\_

(4) Telephone Number(s): \_\_\_\_\_

(5) Identification Numbers: \_\_\_\_\_